

The Indiana State Medical Association (ISMA) is strongly opposed to the FCC's new regulation governing unsolicited fax advertisements. As a non-profit voluntary membership association, the ISMA communicates with its members in many different ways, including fax transmissions. Communicating information to members is a central function of this, and many other, associations. The new regulation concerning unsolicited fax advertisements negatively impacts our ability to communicate with our members in whatever manner we feel is most appropriate under the circumstances.

Furthermore, the new regulation places our non-profit association at a competitive disadvantage with for-profit education companies in offering educational programs to our members. The for-profit entities typically have greater financial resources available to them and can afford professionally-designed flyers and brochures that can be sent through the mail. We do not have that luxury and this regulation will impede our ability to provide educational programs that assist our members in improving their medical practices.

Determining appropriate communications with membership should be a function of the association and its voluntary members and not a governmental agency. Our association has a strong motivation to ensure that our members desire the types of communications we deliver to them, otherwise we will lose members and cease to be in an effective organization.

Under the new FCC regulations, a fax that is interpreted as violating the regulation can be met with steep fines—a remedy that is tailor-made for crippling class action lawsuits that enrich attorneys but do nothing to improve the lot of the consumer that the regulation is supposedly designed to protect. In order to avoid potential fines our association would have to implement onerous record keeping procedures at considerable administrative cost. This is unwarranted, especially in view of the fact that we have never experienced a membership problem concerning unsolicited fax communications.

In summary, the new FCC regulation on unsolicited fax advertisements, in removing the “established business relationship” qualification, is extremely harmful to our association. Our members wish to receive fax communications from us and, if they indicate they do not wish to receive them, we adhere to their wishes or lose their membership. This is a self-regulating situation which works quite well and has none of the draconian results of a fine and lawsuit penalty system. We would greatly appreciate it if the FCC would stay the implementation of this regulation to allow time to address the concerns of our association and numerous other organizations which will be adversely affected by the current version of the regulation.